

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Clarke

Group Art Unit 1761

Serial No.: 09/989,682

Examiner Weinstein, Stephen L.

Filing Date: November 20, 2001

Title: Packaging of Respiring Biological Materials

Mail Stop Amendment

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

RESPONSE TO OFFICE ACTION

Sir,

In response to the office action of June 27, 2008, applicant elects, with traverse, the claims in Group I as defined by the examiner, which are directed to a sealed container containing a plurality of sealed packages.

This restriction requirement is respectfully traversed.

The principal reason for the traversal is the very clear relationship between the subject matter of claim 19 directed to a sealed container that contains a plurality of sealed packages, and the sealed package of claim 21. In particular, the sealed package as specified in claim 19 has almost the exact same limitations as required by the sealed package of claim 21. It is believed that the only differences are that claim 19 requires the bag to be "polymeric" while claim 21 requires the bag to be made of "polyethylene" (which is a polymeric material), and claim 21 specifies that the atmosphere control member "provides at least 50% of the oxygen permeability of the sealed bag," a limitation not present in claim 19. Thus, there is a very clear relationship between the subject matter of claims 19 and 21.

For inventions to be distinct, they must be patentable over each other. MPEP Section 802.01. Let us assume that the examiner can develop a prior art reference that teaches the sealed package of claim 21. Is it the position of the Patent Office that claim 19 would be patentable over such a reference? If it is the position of the Patent Office that claims of each group are patentable over the claims of the other group? If the answer to these questions is no, then the restriction requirement is improper. Only if the answers to these questions are affirmative, the restriction requirement should be maintained.

The response to this office action was delayed because the new address associated with our customer number was not used. For safety, applicant has submitted a change of address. It is requested that the new address be used for future mailings.

Respectfully submitted

/Jeffrey G. Sheldon/

Jeffrey G. Sheldon
Registration No. 27,953